

**Notice of Allowability**

Application No.

10/720,867

Examiner

Rodney T. Frank

Applicant(s)

LA FORTUNE, JEFFREY MARK

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the application filed 24 November 2003.
2. ☒ The allowed claim(s) is/are 1-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 2/23; 10/01/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 1-31 are allowed.
2. The following is an examiner's statement of reasons for allowance: The closest prior art reference belongs to Qin et al. (U.S. Patent Application Publication Number US 2004/0214499 A1; hereinafter referred to as Qin). Qin discloses an absorbent structure made at least in part from a superabsorbent material having a retention capacity (CRC) as determined by a Centrifuge Retention Capacity Test of at least about 25 g/g and a free swell gel bed permeability (GBP) as determined by a Free Swell Gel Bed Permeability Test of at least  $575 \times 10^{-9} \text{ cm}^2$ . In another embodiment, the absorbent structure is made at least in part from a superabsorbent material having a retention capacity (CRC) as determined by a Centrifuge Retention Capacity Test of at least about 25 g/g, an absorbency under load (AUL) at 0.9 psi as determined by an Absorbency Under Load Test of at least 18 and a free swell gel bed permeability (GBP) as determined by a Free Swell Gel Bed Permeability Test of at least about  $350 \times 10^{-9} \text{ cm}^2$ . (Please see the abstract). This application shares a common assignee with the present application as well. With regard to claim 1, for example, Qin discloses an absorbent structure with a superabsorbent material. Qin further discloses an absorbent structure comprising a mixture of hydrophilic fibers (see paragraphs [0030] – [0033] and superabsorbent material, the absorbent structure having a permeability as determined by an Absorbent Structure Permeability Test [0124] and a normalized retention capacity as determined by a Retention Capacity Test

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(paragraph [0008], for example, talks about this particular test). However, there is nowhere in the reference, nor in the prior art that says anything about an absorbent structure having an intake factor of at least about 3 wherein the intake factor is defined as the absorbent structure permeability divided by the normalized retention capacity. By the definition of the intake factor having a specific ratio, the Qin reference talks about finding the specific normalized retention capacity, there is nowhere in the prior art whereby the specific ratio relationship is not defined nor anticipated or implied, then the prior art can not reasonably disclose such a feature. Since the intake factor is a feature of all the independent claims, then these features are deemed as novel in view of the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner has cited various references that are deemed relevant to the general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney T. Frank whose telephone number is (571) 272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

RTF  
February 24, 2006